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BEFORE THE ARIZONA CORPORATION COMMISSION

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SEP 26 2003

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ARIZONA CORPORATION COMMISSION
DIRECTOR OF UTILITIES

IN THE MATTER OF ILEC UNBUNDLING
OBLIGATIONS AS A RESULT OF THE
FEDERAL TRIENNIAL REVIEW ORDER

Docket No. T-00000A-03-0369

STAFF REQUEST FOR A PROCEDURAL ORDER

On August 21, 2003, the Federal Communications Commission ("FCC") released its long-awaited Report and Order in its Triennial Review proceeding in which it examined the obligations of incumbent local exchange carriers ("ILECs") under Section 251(c)(3) to make elements of their networks available on an unbundled basis to new entrants at cost-based rates.¹ The Order requires State Commissions to undertake both a 90 day proceeding (addressing the continued availability of unbundled local switching for CLECs serving enterprise customers) and a 9 month proceeding. The 9 month proceeding encompasses the following three issues: 1) whether competitive carriers would be impaired without the availability of unbundled local switching as a UNE for the mass market or residential customers, 2) whether carriers would be impaired without loops for the enterprise market, and, 3) whether carriers would be impaired without unbundled dedicated transport.

This Commission issued a Procedural Order on June 24, 2003, in which it requested comment by parties within 20 days of the FCC's release of its Report and Order on various issues relating to the 90 day proceeding. Comments were filed by AT&T Communications of the Mountain States, Inc. ("AT&T"), Qwest Corporation ("Qwest"), Z-Tel Communications, Inc. ("Z-Tel"), WorldCom, Inc. ("MCI"), Eschelon Telecom, Inc. ("Eschelon"), The Residential Utility Consumers Office

¹ In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, et. al., CC Docket No. 01-338, et. al., Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, (Rel. Aug. 21, 2003).

1 ("RUCO"), Cox Arizona Telecom, LLC ("Cox"), The Arizona Local Exchange Carriers Association
2 ("ALECA"), Mountain Telecommunications, Inc. ("MTI"), Allegiance Telecom, Inc. ("Allegiance")
3 and Sprint Communications Company L.P. ("Sprint") (collectively "the Parties").

4 After reviewing the FCC's Report and Order and the Parties Comments, Staff respectfully
5 requests that this Docket be divided into two separate phases. The 90 day phase would encompass
6 the 90 day review which is to examine if there is a basis for rebutting the national presumptive
7 finding of no impairment for local circuit switching on high-capacity loops, such as DS-1s, for
8 enterprise market customers (medium and large business). The 9 month phase would encompass the
9 9 month review which is to examine a national presumptive finding of impairment for local circuit
10 switching for mass market customers (residential and small business). This phase would also
11 examine loops for enterprise market customers and dedicated transport.

12 Staff believes that it is important to focus on the commencement of the 90 day proceeding at
13 this time. The primary issue raised in the 90 day proceeding is whether ILECs need to continue to
14 provide unbundled switching to CLECs which use the switching unbundled network element
15 ("UNE") to provide service to enterprise market customers. The FCC established a national
16 presumption that ILECs do not need to provide unbundled switching to CLECs serving enterprise
17 market customers using DS-1 and higher speed loops. However, the FCC established a mechanism
18 by which a State commission can petition the FCC for a waiver of this presumption if the State
19 commission finds that circumstances in specific markets warrant continued provision of the
20 enterprise market switching UNE to CLECs serving DS1 and higher capacity customers.

21 Staff proposes that the Commission commence the 90 day phase by requesting facilities-based
22 CLECs to file comment on the following issues by October 10, 2003:

- 23
- 24 1. Does your Company plan to file evidence in support of a finding of impairment for
25 local circuit switching on high-capacity loops, such as DS-1s, for enterprise
market customers?

26 If your response to Question 1 is yes, please also answer the following questions:

- 27
- 28 2. Please provide all evidence upon which you intend to rely for a finding of
impairment for local circuit switching on high-capacity loops.

- 1 3. Please address each of the specific factors outlined by the FCC at paragraphs 456-
2 458 of the TRO.
3 4. What is the total number of customer the CLEC currently serves in Arizona and
4 what is the total number of customers served by the CLEC in Arizona with DS1
5 and higher capacity loops.

6 If no Company files any evidence by October 10, 2003 in support of a finding of impairment,
7 Staff would propose to file a Staff Report with a summary of its findings and a recommendation that
8 the 90 day proceeding be closed since no evidence was presented by any Arizona carriers to rebut the
9 national finding of no impairment.

10 Alternatively, if a Company files evidence by October 10, 2003, to rebut the national finding
11 of no impairment, the Staff will review the information and make a recommendation as to whether
12 an expedited hearing is necessary to allow parties to present their positions to the Hearing Division
13 for resolution.

14 Finally, the Staff intends to issue a separate request for a Procedural Order in the near future
15 addressing the 9 month proceeding.

16 WHEREFORE, the Staff respectfully requests that the Commission issue a Procedural Order
17 consistent with the discussion set forth above.

18 RESPECTFULLY submitted this 26th day of September, 2003.

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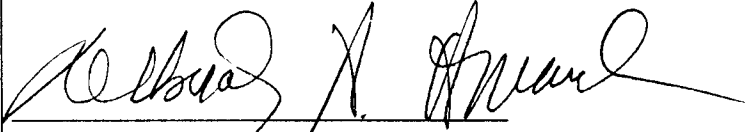
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